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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/627,870	07/28/2000	David H. Sprogis	5014	2817

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EXAMINER	
CARLSON, JEFFREY D	
ART UNIT	PAPER NUMBER
3622	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/627,870	SPROGIS, DAVID H.	
	Examiner	Art Unit	
	Jeffrey D. Carlson	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 January 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *27-29,31-40,42-44,46 and 47* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *27-29,31-40,42-44,46 and 47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the papers filed 1/24/07.

The amendment filed 1/24/07 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: There is no clear support found for a lack of personal information from audience members. Any negative limitation or exclusionary proviso must have basis in the original disclosure. The mere absence of a positive recitation is not basis for an exclusion. See MPEP 2173.05(i).

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

Claim 43 (end of claim) is objected to because of the following informalities: "not" should apparently be inserted before "involve receiving personal information". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 27-29, 31-40, 42-44, 46, 47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claims 27 and 38 are system (apparatus) claims which should set forth structure/capabilities rather than method steps. The language at the end of the claims appears to represent method steps (does not receive...data is generated). The components of the system that provide these capabilities should be set forth.
- Claim 43 sets forth a method claim, yet appears to conclude with language describing what the method accomplishes, rather than particular steps that are performed. Applicant should specifically claim what steps are performed rather than describe an effect of the performed method.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 27-29, 31-40, 42-44, 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabowsky (6,141,530) in view of Zigmond et al (6,698,020)

Claims 27, 38, and 43: Rabowsky discloses a system and method for providing

advertisement information to an audience. In particular, Rabowsky teaches that cinema files are digitized and distributed to theaters electronically for playback. A automated scheduling system is provided in order to automatically play selected advertising with the actual timed movie showings [abstract, 1:61 to 2:5, 7:37-49, 12:8-29]. However, while Rabowsky's movie advertising schedule is clearly automated in terms of playback, it is unclear how the ads are chosen for inclusion in the schedule. Zigmond et al teaches a system where video programming is provided with selected targeted advertising. Rabowsky teaches that conventional prior art systems choose targeted ads based upon location [2:40-43] and that targeted ads can also be selected based upon the content of the video programming, location of the showing, characteristics of the viewer, local time, etc. and then subsequently displayed at the appropriate time [4:25-48]. This selection is accomplished by automatically matching stored criteria regarding the audience, showing location with stored criteria representing the type of audience, type of location, etc. desired by each stored advertisement submitted by the advertiser [col 10-12]. It would have been obvious to one of ordinary skill at the time of the invention to have created the advertising schedule of Rabowsky using similar techniques so that the advertisements associated with the actual movie showings could be targeted to location, programming content, time, etc. in order to provide a more compelling advertisement experience likely to be more well received by the audience than untargeted ads. Regarding the language that the system does not receive personal information from each audience member, Zigmond et al teaches that initial profiles may be provided through voluntary surveys [col 10 lines 61-63] which

suggests that not all audience members need provide such information. Further, even if a parent submits a voluntary profile survey, certain audience members (such as young children also in the room watching a show) clearly do not provide personal information. The language hinting that exposure data is indicative of the number of people that viewed ads is met by exposure reports (col 7, lines 8-11; col 12, lines 30-35; and col 14, lines 20-30). If an advertisement is showed zero times it is indicative of zero audience members seeing it. Ads that were showed many times are indicative of larger exposure numbers than ads shown much less.

Claims 28 and 29: Rabowsky and Zigmond et al disclose a system for providing advertisement information to an audience as in Claim 27 above, and Rabowsky further discloses that the scheduling system includes scheduling and playout of all trailers and data files (e.g. advertisements)(col 12, lines 8-28). While it is not explicitly disclosed that more than one job request is associated with an actual movie showing, nor that more than one actual movie showing is associated with a job request, Official Notice is taken that it is old and well known for theaters to display a plurality of advertisements and trailers while the audience is waiting for the actual movie showing to start. Likewise, it is old and well known that theaters present many of the same advertisements (e.g. advertising the theater's concession stand) and trailers to audiences awaiting the start of different actual movie showings. Therefore, it would have been obvious to one having ordinary skill in the art to select a plurality of job request for each actual movie showing and to select a plurality of actual movie

showings for each job request in Rabowsky. One would have been motivated to select more than one advertisement per actual movie showing in order to keep the audience entertained for the 5-30 minutes they are awaiting the start of the actual movie showing. One would have been motivated to select more than one actual movie showing per job request in order to preclude the need to make unique advertisements and trailers for every possible actual movie showing. In other words, there would only need to be one advertisement for the theater's concession stand, not a unique one for each actual movie showing.

Claims 31, 42, and 46: Rabowsky and Zigmond et al disclose a system and method for providing advertisement information to an audience as in Claims 27, 38, and 43 above, and Rabowsky further discloses generating an exposure log (report) for data representing the presentation of advertisements, trailers, and the actual movie showings (col 7, lines 8-11; col 12, lines 30-35; and col 14, lines 20-30).

Claims 32-34: Rabowsky and Zigmond et al disclose a system for providing advertisement information to an audience as in Claim 27 above, and Rabowsky further discloses the audience common interest data includes information regarding a movie rating, time of day scheduled to be shown, first showing movie, etc. (col 3, lines 22-26; col 7, lines 38-47; col 7, line 61 – col 8, line 41; col 9, lines 43-50; col 10, lines 34-67; and col 12, lines 9-19).

Claims 35 and 47: Rabowsky and Zigmond et al disclose a system and method for providing advertisement information to an audience as in Claims 27 and 43 above,

and Rabowsky further discloses means for assembling a plurality of frames (tiles) into a composite frame (Figure 3 and col 11, lines 11-46).

Claim 36: Rabowsky and Zigmond et al disclose a system for providing advertisement information to an audience as in Claim 35 above, and Rabowsky further discloses using a digital projector to display the composite frame (col 9, lines 43-50 and col 10, lines 34-67).

Claim 37: Rabowsky and Zigmond et al disclose a system for providing advertisement information to an audience as in Claim 27 above, and Rabowsky further discloses the system providing an exposure report (col 7, lines 5-13; col 8, lines 1-11; and col 12, lines 30-35).

Claims 39 and 44: Rabowsky and Zigmond et al disclose a system and method for providing advertisement information to an audience as in Claims 38 and 43 above, and Rabowsky discloses generating a schedule for playing the non-cinema files (to include advertisements, trailers, etc.) with the scheduled movie at a remote display screen. While neither reference explicitly states that the schedule "comprises an entire presentation in advance of a movie that is scheduled to be shown", it is inherent that since the remote screen displays the data according to the schedule that the schedule must include all of the information being presented (i.e. the entire presentation). While it is not inherent that the entire presentation of the non-cinema data must be shown "in advance of a movie that is scheduled to be shown", Official Notice is taken that it is common within the movie industry to present the advertisements, trailers, previews, etc. before showing the actual movie. This is done to ensure that the greatest number of

people view this information since many people will leave the theater as soon as the movie credits begin to roll at the end of the movie. It also would make no business sense to display an advertisement for the theater's concession stand at the end of the movie. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to display the non-cinema data *in advance* of the movie showing. One would have been motivated to do this for the reasons discussed above.

Claim 40: Rabowsky and Zigmond et al disclose a system for providing advertisement information to an audience as in Claim 38 above, but neither reference explicitly discloses a means for identifying duplicate content within a schedule. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to not only check for duplicates within a schedule but to also eliminate any duplicates located. One would have been motivated to check for and eliminate duplicates within the schedule in order to prevent repetitive showings of the same information to the audience. Such repetitive showings, such as duplicate trailers of an upcoming movie, repeating the same advertisement over and over again, etc. are often viewed with contempt or aggravation by the audience and result in lower affinity towards the advertiser (or theater management in the case of duplicate trailers).

Response to Arguments

Regarding the language that the system does not receive personal information from each audience member, Zigmond et al teaches that initial profiles may be provided

through voluntary surveys which suggests that not all audience members need provide such information. Further, even if a parent submits a voluntary profile survey, certain audience members (such as young children also in the room watching a show) clearly do not provide personal information.

The language hinting that exposure data is indicative of the number of people that viewed ads is met by exposure reports (col 7, lines 8-11; col 12, lines 30-35; and col 14, lines 20-30). If an advertisement is showed zero times it is indicative of zero audience members seeing it. Ads that were showed many times are indicative of larger exposure numbers than ads shown much less.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Carlson whose telephone number is 571-272-6716. The examiner can normally be reached on Mon-Fri 8a-5:30p, (work from home on Thursdays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey D. Carlson
Primary Examiner
Art Unit 3622

jdc